

REMARKS

The Office Action dated April 26, 2004, has been carefully reviewed and the foregoing amendment has been made in response thereto.

Claims 38, 39, 42, 44, 46-48, 50 and 52 stand rejected under 35 U.S.C. 102(e) as anticipated by Suzuki (U.S. Patent 6,729,426). Claims 40, 42, 43, 45, 49, 51 and 53 stand rejected under 35 USC 103(a) as unpatentable over Suzuki (U.S. Patent 6,729,426).

In order to apply the Suzuki patent as a basis for the rejections of the Office action, the Suzuki patent must have been described in: (1) an application for patent published under 35 USC 122(b) by another filed in the U. S. before applicants invention; or (2) a patent granted on an application for patent by another filed in the U. S. before applicants invention. The filing date of the subject application antedates both the publication date and the U. S. filing date of the Suzuki patent.

Under 35 U.S.C. 102(e), an international application filed under the Patent Cooperation Treaty done at Washington, on June 19, 1970 shall have the effects for the purposes of 35 U.S.C. 102(e) of an application filed in the U. S. only if the international application designated the U. S. and was published under Article 21 (2) of that treaty in the English language. The Suzuki patent is not an international application and does not meet the standards of 35 U.S.C. 102(e) (2). See MPEP 706.02 (f) (1) Examination Guidelines for Applying References Under 35 U.S.C.102(e).

In view of the foregoing amendment and remarks, it appears that the Suzuki patent is not a reference that can be used to reject the claims of the subject application under 35 U.S.C. 102(e). The rejections of the claims with reference to the Suzuki patent should be withdrawn.

Respectfully submitted,



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